

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12228 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

VADODARA MUNICIPAL CORPORATION

Versus

JAYANTILAL M PATEL

Appearance:

MR ND GOHIL for Petitioner

No one has appeared on behalf of the respondent.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 08/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Mr.N.D.Gohil has invited the attention of the court to an order dated 15.11.2000 passed in Special Civil Applications Nos.2703, 2704 and 2708 to 2723 of 2000. Mr. Gohil has pointed out that the Municipal Corporation seeks to challenge the order passed by the learned Joint District Judge, Vadodara in Tax Appeal No.279/99 decided on 8.9.99 and has submitted at the very outset that the Municipal Valuation Appeal preferred under Sec.406 could not be entertained unless the deposit of the due amount of the tax was made as required by law and the court has erred in entertaining the Appeal without such deposit. In this view of the matter, it is not necessary for us to go into the other grounds, which have been raised in this Petition because the matter deserves to be remanded to the Appellate Court for decision in accordance with law. We, therefore, direct that the assessee i.e. appellant in the Original Appeal under Sec.406 of the B.P.M.C.Act shall deposit 75% of the amount in dispute and on such deposit being made in the Appeal, the Appellate Court shall take the Appeal on file and proceed to hear and decide the same on merits in accordance with law. The impugned order dated 8.9.99 passed by the Joint District Judge, Vadodara in Tax Appeal No.279/99 is hereby set aside and the matter is remanded back for decision on merits afresh after the deposit of 75% of the amount in dispute by the original appellant. The rights of the parties shall be governed by the ultimate decision, which is rendered by the Appellate Court in the Appeal in the remanded proceedings. This Special Civil Application is allowed, as above and the Rule is also made absolute accordingly. No order as to costs.

(M.R.Calla, J)

(J.R.Vora, J)